

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MILLARD KNOX,)
vs. Petitioner,) NO. CIV-06-1391-T
JUSTIN JONES,)
Respondent.)

O R D E R

Petitioner, a state prisoner appearing *pro se*, brought this action for a writ of habeas corpus pursuant to 42 U.S.C. §2254. In accordance with 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Valerie K. Couch for initial proceedings. Judge Couch reviewed the petition and determined that petitioner has previously challenged the conviction which is the subject of his claim for habeas relief. *See* Case No. CIV-97-1062-A. She further noted that petitioner acknowledges the filing of a prior habeas petition.

Judge Couch correctly concluded that this court lacks jurisdiction to consider a second or successive habeas petition and that petitioner must first obtain authorization from the United States Court of Appeals for the Tenth Circuit to file a second or successive petition. 28 U. S. C. § 2244(b); Lopez v. Douglas, 141 F.3d 974, 975-76 (10th Cir. 1998). On January 3, 2007 the magistrate judge filed a Report and Recommendation [Doc. No. 8] in which she recommended that, pursuant to the applicable procedure of the Tenth Circuit, this matter be transferred to the circuit, where petitioner may seek an order authorizing this court to consider his petition.

In the Report and Recommendation, the magistrate judge advised the parties of their right

to object to same, and scheduled a January 23, 2007 deadline for filing objections. She further advised that a failure to timely object would constitute a waiver of the right to do so.

That deadline has expired, and no party has objected to the Report and Recommendation. Accordingly, the Report and Recommendation [Doc. No. 8] is adopted as though fully set forth herein. The Clerk is directed to transfer this action to the Tenth Circuit Court of Appeals pursuant to 28 U. S. C. § § 1631 and 2244(b)(3)(A).

IT IS SO ORDERED this 2nd day of February, 2007.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE